

22 MAY 2007



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In re Application of :
GLUCKMAN, et al :
Application No.: 10/533,421 :
PCT No.: PCT/US2003/034789 :
Int. Filing Date: 03 November 2003 : COMMUNICATION
Priority Date: 01 November 2002 :
Attorney's Docket No.: GMU-0007 :
For: METHODS AND DEVICES FOR :
DETERMINING BRAIN STATE :

This application is before the PCT Legal Administrative Office for consideration of matters under 35 U.S.C. 371.

DISCUSSION

On 29 April 2005 applicants filed in the United States Patent and Trademark Office (PTO) a transmittal letter for entry into the national stage in the U.S. under 35 U.S.C. 371, which was accompanied by, *inter alia*, the U.S. basic national fee. However, no executed oath or declaration accompanied the international application.

On 19 September 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, *inter alia*, that an "Oath or Declaration of the inventors, in compliance with 37 CFR 1.47(a) and (b), identifying the application by International application number and international filing date." The notice set a reply of two months from its date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 16 February 2006, applicants responded to the Notification mailed on 19 September 2005 by submitting, *inter alia*, an executed composite declaration.

On 22 May 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) indicating that the oath or declaration does not comply with 37 CFR 1.497(a) and (b) in that it: signature of second inventor partially missing.

On 23 February 2007, applicants responded to the Notification mailed on 22 May 2005 by submitting, inter alia, a second executed composite declaration.

Applicants' response is accepted as a sufficient response to the Notification of Missing Requirements (FORM PCT/DO/EO/905) mailed on 19 September 2005, and to NOTIFICATION OF DEFECTIVE RESPONSE" (Form PCT/DO/EO/916) mailed 22 May 2006.


However, for the reason below, the application may not enter into national stage processing at this time.

The composite declaration filed on 23 February 2007 is defective because it does not comply with 37 CFR 1.497(a)(3). A Declaration, under 37 CFR 1.497(a)(3), must identify each inventor. See MPEP § 602. In this instance, applicants submitted a composite declaration comprising of five sets of declarations, which none is complete because each set must be complete by having the correct number of pages and listing all the inventors.

Copies of the same page is not part of a set of a proper declaration because it is considered a composite declaration and each set must be a complete declaration with the proper statement and the names of each inventor even though each set of declarations may not have all the signatures of the inventors. Therefore, a proper declaration must consist of individual complete sets of declaration that taken as a whole would have all the required signatures of the inventors as required under 37 CFR 1.497(a)(3).

Applicant is required to provide an oath or declaration in compliance with 37 CFR 1.497(a)-(b) within TWO (2) MONTHS from the mail date of this Decision. Failure to respond will result in the abandonment of the application. Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.


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